

**Introduced by Senator Liu**

February 11, 2013

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An act to amend, repeal, and add Section 42605 of, and to add and repeal Chapter 3 (commencing with Section 63060) of Part 35 of Division 4 of Title 2 of, the Education Code, relating to education finance, and making an appropriation therefor.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 223, as introduced, Liu. Education finance: Maximum Categorical Funding Flexibility and Accountability Program.

Existing law establishes various categorical education programs and appropriates the funding for those programs in the annual Budget Act. Existing law requires the Superintendent of Public Instruction, for the 2009–10 to the 2014–15 fiscal year, inclusive, to apportion from the amount provided in the annual Budget Act for specified categorical education programs an amount based on the same relative proportion that the local educational agency received in the 2008–09 fiscal year for those programs and authorizes those agencies, for those fiscal years, to use these funds, with specified exceptions, for any educational purpose, to the extent permitted by federal law.

Existing law, as a condition of receiving the categorical education program funds that may be used for any educational purpose, requires school districts and county offices of education, at a regularly scheduled open public hearing, to take testimony from the public, discuss, and approve or disapprove the proposed use of funding. Existing law requires a local educational agency to report expenditures, as specified, to indicate the activities for which these funds were expended and requires the State Department of Education annually to collect and provide this information to the appropriate legislative policy and budget committees

and the Department of Finance. Existing law, for those fiscal years, deems local educational agencies that use these categorical education program funds for any educational purpose to be in compliance with the program and funding requirements of those categorical education programs.

This bill would establish the Maximum Categorical Funding Flexibility and Accountability Program, to be implemented from the 2015–16 fiscal year to the 2019–20 fiscal year, inclusive. The bill would extend the operation of the provisions that authorize the expenditure of funds provided for specified categorical education programs for any educational purpose by 5 fiscal years. The bill would thereby make an appropriation by allowing the expenditure of appropriated funds for additional purposes for that extended period.

To be eligible for selection for participation in this program, and in order to utilize the provisions allowing the expenditure of funds appropriated for specified categorical programs for any educational purpose for any of the fiscal years from 2015–16 to 2019–20, inclusive, a school district would be required to meet certain preconditions, including developing a plan to accelerate pupils' progress to proficiency that includes specified goals. A school district selected by the Superintendent to participate in the program would be required to agree to demonstrate significant progress toward accelerating pupils' progress toward proficiency in California's academic standards over a 3-year period, a narrowing of the achievement gap in its federally recognized subgroups, fiscal solvency, positive growth on the school district's Academic Performance Index, an increase in its graduation rate, and improvement in its college entrance rate.

The bill would require the Superintendent, for the 2015–16 to 2019–20 fiscal years, inclusive, to apportion to the participating school districts an increase or decrease of the amounts apportioned under the provisions authorizing the expenditure of funds appropriated for specified categorical programs for any educational purpose in accordance with specified criteria. The bill would require the additional funds apportioned to school districts under this program to be expended for any purpose related to improving pupil achievement and academic instruction, except as specified.

The bill would require that a participating school district would be deemed to be in compliance with the program and funding requirements associated with the categorical education programs.

The bill would require that a participating school district would be required to submit an evaluative annual report and an annual expenditure report, including prescribed information, to the State Department of Education. The bill would require the Superintendent to contract for an interim evaluation report and a final evaluation report that identifies the success and failures of the program and makes recommendations regarding improving the program and whether the program should be continued. The provisions establishing the program would become inoperative on July 1, 2020, and would be repealed on January 1, 2021.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:  
3 (a) California school districts are facing immeasurable  
4 challenges managing reductions in state funding, and need  
5 maximum flexibility in the ways they can utilize restricted funding  
6 from the state.  
7 (b) However, the current tiers of categorical program  
8 appropriations, coupled with lack of accountability, provide no  
9 assurances that categorical funding will be used for purposes related  
10 to improving pupil achievement and academic instruction.  
11 (c) Merging the concept of funding flexibility with locally  
12 governed planning processes with the goal of improving pupil  
13 achievement and academic instruction will allow state money for  
14 categorical education programs to be managed more efficiently  
15 and effectively by school districts to meet the academic needs of  
16 all pupils and result in progress in closing the achievement gap.  
17 (d) Maximum categorical program flexibility will enhance a  
18 school district's ability to support academic and career goals for  
19 all pupils and provide systematic, differentiated instruction and  
20 interventions to accelerate pupils' progress to proficiency.  
21 (e) Allowing the state to evaluate the benefits of maximum  
22 categorical program flexibility, and ensuring that program  
23 flexibility is used correctly, will result in gains in pupil  
24 achievement.

SEC. 2. Section 42605 of the Education Code, as amended by Section 2 of Chapter 668 of the Statutes of 2012, is amended to read:

42605. (a) (1) Unless otherwise prohibited under federal law or otherwise specified in subdivision (e), for the 2008–09 fiscal year to the 2014–15 fiscal year, inclusive, recipients of funds from the items listed in paragraph (2) may use funding received, pursuant to subdivision (b), from any of these items listed in paragraph (2) that are contained in Section 2.00 of the annual Budget Act, for any educational purpose.

(2) Items 6110-104-0001, 6110-105-0001, 6110-108-0001, 6110-122-0001, 6110-124-0001, 6110-137-0001, 6110-144-0001, 6110-150-0001, 6110-151-0001, 6110-156-0001, 6110-181-0001, 6110-188-0001, 6110-189-0001, 6110-190-0001, 6110-193-0001, 6110-195-0001, 6110-198-0001, 6110-204-0001, 6110-208-0001, 6110-209-0001, 6110-211-0001, 6110-227-0001, 6110-228-0001, 6110-232-0001, 6110-240-0001, 6110-242-0001, 6110-243-0001, 6110-244-0001, 6110-245-0001, 6110-246-0001, 6110-247-0001, 6110-248-0001, 6110-260-0001, 6110-265-0001, 6110-266-0001, 6110-267-0001, 6110-268-0001, and 6360-101-0001 of Section 2.00.

(b) (1) For the 2009–10 fiscal year to the 2014–15 fiscal year, inclusive, the Superintendent or other administering state agency, as appropriate, shall apportion from the amounts provided in the annual Budget Act for the items enumerated in paragraph (2) of subdivision (a) an amount to recipients based on the same relative proportion that the recipient received in the 2008–09 fiscal year for the programs funded through the items enumerated in paragraph (2) of subdivision (a).

(2) This section and Section 42 of Chapter 12 of the Third Extraordinary Session of the Statutes of 2009 do not authorize a school district that receives funding on behalf of a charter school pursuant to Sections 47634.1 and 47651 to redirect this funding for another purpose unless otherwise authorized in law or pursuant to an agreement between a charter school and its chartering authority. Notwithstanding paragraph (1), for the 2008–09 fiscal year to the 2014–15 fiscal year, inclusive, a school district that receives funding on behalf of a charter school pursuant to Sections 47634.1 and 47651 shall continue to distribute the funds to those charter schools based on the relative proportion that the school

district distributed in the 2007–08 fiscal year, and shall adjust those amounts to reflect changes in charter school attendance in the district. The amounts allocated shall be adjusted for any greater or lesser amount appropriated for the items enumerated in paragraph (2) of subdivision (a). For a charter school that began operation in the 2008–09 fiscal year, if a school district received funding on behalf of that charter school pursuant to Sections 47634.1 and 47651, the school district shall continue to distribute the funds to that charter school based on the relative proportion that the school district distributed in the 2008–09 fiscal year and shall adjust the amount of those funds to reflect changes in charter school attendance in the district. The amounts allocated shall be adjusted for any greater or lesser amount appropriated for the items enumerated in paragraph (2) of subdivision (a).

(3) Notwithstanding paragraph (1), for the 2008–09 fiscal year to the 2014–15 fiscal year, inclusive, the Superintendent shall apportion from the amounts appropriated by Item 6110-211-0001 of Section 2.00 of the annual Budget Act an amount to a charter school in accordance with the per-pupil methodology prescribed in subdivision (c) of Section 47634.1.

(4) Notwithstanding paragraph (1), for the 2008–09 fiscal year to the 2014–15 fiscal year, inclusive, the Superintendent shall apportion from the amounts provided in the annual Budget Act an amount to a school district, charter school, and county office of education based on the same relative proportion that the local educational agency received in the 2007–08 fiscal year for the programs funded through the following items contained in Section 2.00 of the annual Budget Act: 6110-104-0001, 6110-105-0001, 6110-156-0001, 6110-190-0001, Schedule (3) of 6110-193-0001, 6110-198-0001, 6110-232-0001, and Schedule (2) of 6110-240-0001.

(5) For purposes of paragraph (4), if a direct-funded charter school began operation in the 2008–09 fiscal year, the amount that the charter school was entitled to receive from the items enumerated in paragraph (4) for the 2008–09 fiscal year, as certified by the Superintendent in March 2009, is deemed to have been received in the 2007–08 fiscal year.

(c) (1) This section does not obligate the state to refund or repay reductions made pursuant to this section. A decision by a school district to reduce funding pursuant to this section for a

1 state-mandated local program shall constitute a waiver of the  
2 subvention of funds that the school district is otherwise entitled to  
3 pursuant to Section 6 of Article XIII B of the California  
4 Constitution on the amount so reduced.

5 (2) (A) As a condition of receipt of funds, the governing board  
6 of the school district or governing board of the county office of  
7 education, as appropriate, at a regularly scheduled open public  
8 hearing shall take testimony from the public, discuss, approve or  
9 disapprove the proposed use of funding, and make explicit for each  
10 of the budget items in paragraph (2) of subdivision (a) the purposes  
11 for which the funds will be used.

12 (B) The regularly scheduled open public hearing held pursuant  
13 to subparagraph (A) shall be held before and independent of a  
14 meeting where the governing board of the school district or  
15 governing board of the county office of education adopts a budget.  
16 If the governing board intends to close a program funded by the  
17 items listed in paragraph (2) of subdivision (a), the governing board  
18 shall identify, in the notice of the agenda of the public hearing or  
19 at another public hearing, the program or programs proposed to  
20 be closed.

21 (3) Using the Standardized Account Code Structure reporting  
22 process, a local educational agency shall report expenditures of  
23 funds pursuant to the authority of this section by using the  
24 appropriate function codes to indicate the activities for which these  
25 funds are expended. The department shall collect and provide this  
26 information to the Department of Finance and the appropriate  
27 policy and budget committees of the Legislature by April 15, 2010,  
28 and annually thereafter on April 15 until, and including, April 15,  
29 2016.

30 (d) For the 2008–09 fiscal year to the 2014–15 fiscal year,  
31 inclusive, local educational agencies that use the flexibility  
32 provision of this section shall be deemed to be in compliance with  
33 the program and funding requirements contained in statutory,  
34 regulatory, and provisional language; associated with the items  
35 enumerated in subdivision (a).

36 (e) Notwithstanding subdivision (d), the following requirements  
37 shall continue to apply:

38 (1) For Item 6110-105-0001 of Section 2.00 of the annual  
39 Budget Act, the amount authorized for flexibility shall exclude the  
40 funding provided to fund remedial educational services pursuant

1 to Provision 4. For Item 6110-156-0001 of Section 2.00 of the  
2 annual Budget Act, the amount authorized for flexibility shall  
3 exclude the funding provided for instruction of CalWORKs-eligible  
4 students pursuant to Schedules (2) and (3) and Provisions 2 and  
5 4.

6 (2) (A) Any instructional materials purchased by a local  
7 educational agency for kindergarten and grades 1 to 8, inclusive,  
8 and for grades 9 to 12, inclusive, shall be aligned with the state  
9 standards adopted pursuant to Section 60605 or 60605.8, and shall  
10 also meet the reporting and sufficiency requirements contained in  
11 Section 60119.

12 (B) For purposes of this section, “sufficiency” means that each  
13 pupil has sufficient textbooks and instructional materials in the  
14 four core areas as defined by Section 60119 and that all pupils  
15 within the local educational agency who are enrolled in the same  
16 course shall have identical textbooks and instructional materials,  
17 as specified in Section 1240.3.

18 (3) For Item 6110-195-0001 of Section 2.00 of the annual  
19 Budget Act, the item shall exclude moneys that are required to  
20 fund awards for teachers that have previously met the requirements  
21 necessary to obtain these awards, until the award is paid in full.

22 (4) For Item 6110-266-0001 of Section 2.00 of the annual  
23 Budget Act, a county office of education shall conduct at least one  
24 site visit to each of the required schoolsites pursuant to Section  
25 1240 and shall fulfill all of the duties set forth in Sections 1240  
26 and 44258.9.

27 (5) For Item 6110-198-0001 of Section 2.00 of the annual  
28 Budget Act, a school district or county office of education that  
29 operates the child care component of the Cal-SAFE program shall  
30 comply with paragraphs (5) and (6) of subdivision (c) of Section  
31 54746.

32 (f) This section does not invalidate any state law pertaining to  
33 teacher credentialing requirements or the functions that require  
34 credentials.

35 (g) *This section shall become inoperative on July 1, 2015, and,*  
36 *as of January 1, 2016, is repealed, unless a later enacted statute,*  
37 *that becomes operative on or before January 1, 2016, deletes or*  
38 *extends the dates on which it becomes inoperative and is repealed.*

39 SEC. 3. Section 42605 is added to the Education Code, to read:

1 42605. (a) (1) Unless otherwise prohibited under federal law  
2 or otherwise specified in subdivisions (d) and (e), for the 2015–16  
3 fiscal year to the 2019–20 fiscal year, inclusive, recipients of funds  
4 from the items listed in paragraph (2) may use funding received,  
5 pursuant to subdivision (b), from any of these items listed in  
6 paragraph (2) that are contained in Section 2.00 of the annual  
7 Budget Act, for any educational purpose.

8 (2) Items 6110-104-0001, 6110-105-0001, 6110-108-0001,  
9 6110-122-0001, 6110-124-0001, 6110-137-0001, 6110-144-0001,  
10 6110-150-0001, 6110-151-0001, 6110-156-0001, 6110-181-0001,  
11 6110-188-0001, 6110-189-0001, 6110-190-0001, 6110-193-0001,  
12 6110-195-0001, 6110-198-0001, 6110-204-0001, 6110-208-0001,  
13 6110-209-0001, 6110-211-0001, 6110-227-0001, 6110-228-0001,  
14 6110-232-0001, 6110-240-0001, 6110-242-0001, 6110-243-0001,  
15 6110-244-0001, 6110-245-0001, 6110-246-0001, 6110-247-0001,  
16 6110-248-0001, 6110-260-0001, 6110-265-0001, 6110-266-0001,  
17 6110-267-0001, 6110-268-0001, and 6360-101-0001 of Section  
18 2.00.

19 (b) (1) For the 2015–16 fiscal year to the 2019–20 fiscal year,  
20 inclusive, the Superintendent or other administering state agency,  
21 as appropriate, shall apportion from the amounts provided in the  
22 annual Budget Act for the items enumerated in paragraph (2) of  
23 subdivision (a) an amount to recipients based on the same relative  
24 proportion that the recipient received in the 2008–09 fiscal year  
25 for the programs funded through the items enumerated in paragraph  
26 (2) of subdivision (a).

27 (2) This section and Section 42 of Chapter 12 of the Third  
28 Extraordinary Session of the Statutes of 2009 do not authorize a  
29 school district that receives funding on behalf of a charter school  
30 pursuant to Sections 47634.1 and 47651 to redirect this funding  
31 for another purpose unless otherwise authorized in law or pursuant  
32 to an agreement between a charter school and its chartering  
33 authority. Notwithstanding paragraph (1), for the 2015–16 fiscal  
34 year to the 2019–20 fiscal year, inclusive, a school district that  
35 receives funding on behalf of a charter school pursuant to Sections  
36 47634.1 and 47651 shall continue to distribute the funds to those  
37 charter schools based on the relative proportion that the school  
38 district distributed in the 2007–08 fiscal year, and shall adjust those  
39 amounts to reflect changes in charter school attendance in the  
40 district. The amounts allocated shall be adjusted for any greater



1 or lesser amount appropriated for the items enumerated in  
2 paragraph (2) of subdivision (a). For a charter school that began  
3 operation in the 2008–09 fiscal year, if a school district received  
4 funding on behalf of that charter school pursuant to Sections  
5 47634.1 and 47651, the school district shall continue to distribute  
6 the funds to that charter school based on the relative proportion  
7 that the school district distributed in the 2008–09 fiscal year and  
8 shall adjust the amount of those funds to reflect changes in charter  
9 school attendance in the district. The amounts allocated shall be  
10 adjusted for any greater or lesser amount appropriated for the items  
11 enumerated in paragraph (2) of subdivision (a).

12 (3) Notwithstanding paragraph (1), for the 2015–16 fiscal year  
13 to the 2019–20 fiscal year, inclusive, the Superintendent shall  
14 apportion from the amounts appropriated by Item 6110-211-0001  
15 of Section 2.00 of the annual Budget Act an amount to a charter  
16 school in accordance with the per-pupil methodology prescribed  
17 in subdivision (c) of Section 47634.1.

18 (4) Notwithstanding paragraph (1), for the 2015–16 fiscal year  
19 to the 2019–20 fiscal year, inclusive, the Superintendent shall  
20 apportion from the amounts provided in the annual Budget Act an  
21 amount to a school district, charter school, and county office of  
22 education based on the same relative proportion that the local  
23 educational agency received in the 2007–08 fiscal year for the  
24 programs funded through the following items contained in Section  
25 2.00 of the annual Budget Act: 6110-104-0001, 6110-105-0001,  
26 6110-156-0001, 6110-190-0001, Schedule (3) of 6110-193-0001,  
27 6110-198-0001, 6110-232-0001, and Schedule (2) of  
28 6110-240-0001.

29 (5) For purposes of paragraph (4), if a direct-funded charter  
30 school began operation in the 2008–09 fiscal year, the amount that  
31 the charter school was entitled to receive from the items  
32 enumerated in paragraph (4) for the 2008–09 fiscal year, as certified  
33 by the Superintendent in March 2009, is deemed to have been  
34 received in the 2007–08 fiscal year.

35 (c) (1) This section does not obligate the state to refund or repay  
36 reductions made pursuant to this section. A decision by a school  
37 district to reduce funding pursuant to this section for a  
38 state-mandated local program shall constitute a waiver of the  
39 subvention of funds that the school district is otherwise entitled to

1 pursuant to Section 6 of Article XIII B of the California  
2 Constitution on the amount so reduced.

3 (2) (A) As a condition of receipt of funds, the governing board  
4 of the school district or governing board of the county office of  
5 education, as appropriate, at a regularly scheduled open public  
6 hearing shall take testimony from the public, discuss, approve or  
7 disapprove the proposed use of funding, and make explicit for each  
8 of the budget items in paragraph (2) of subdivision (a) the purposes  
9 for which the funds will be used.

10 (B) The regularly scheduled open public hearing held pursuant  
11 to subparagraph (A) shall be held before and independent of a  
12 meeting where the governing board of the school district or  
13 governing board of the county office of education adopts a budget.  
14 If the governing board intends to close a program funded by the  
15 items listed in paragraph (2) of subdivision (a), the governing board  
16 shall identify, in the notice of the agenda of the public hearing or  
17 at another public hearing, the program or programs proposed to  
18 be closed.

19 (3) Using the Standardized Account Code Structure reporting  
20 process, a local educational agency shall report expenditures of  
21 funds pursuant to the authority of this section by using the  
22 appropriate function codes to indicate the activities for which these  
23 funds are expended. The department shall collect and provide this  
24 information to the Department of Finance and the appropriate  
25 policy and budget committees of the Legislature by April 15, 2016,  
26 and annually thereafter on April 15 until, and including, April 15,  
27 2021.

28 (d) For the 2015–16 fiscal year to the 2019–20 fiscal year,  
29 inclusive, local educational agencies that use the flexibility  
30 provision of this section shall be deemed to be in compliance with  
31 the program and funding requirements contained in statutory,  
32 regulatory, and provisional language associated with the items  
33 listed in paragraph (2) of subdivision (a) if the Superintendent  
34 approves the participation of the local educational agency in the  
35 Maximum Categorical Funding Flexibility and Accountability  
36 Program pursuant to Chapter 3 (commencing with Section 63060)  
37 of Part 35 of Division 4.

38 (e) Notwithstanding subdivision (d), the following requirements  
39 shall continue to apply:

(1) For Item 6110-105-0001 of Section 2.00 of the annual Budget Act, the amount authorized for flexibility shall exclude the funding provided to fund remedial educational services pursuant to Provision 4. For Item 6110-156-0001 of Section 2.00 of the annual Budget Act, the amount authorized for flexibility shall exclude the funding provided for instruction of CalWORKs-eligible students pursuant to Schedules (2) and (3) and Provisions 2 and 4.

(2) (A) Any instructional materials purchased by a local educational agency for kindergarten and grades 1 to 8, inclusive, and for grades 9 to 12, inclusive, shall be aligned with the state standards adopted pursuant to Section 60605 or 60605.8, and shall also meet the reporting and sufficiency requirements contained in Section 60119.

(B) For purposes of this section, “sufficiency” means that each pupil has sufficient textbooks and instructional materials in the four core areas as defined by Section 60119 and that all pupils within the local educational agency who are enrolled in the same course shall have identical textbooks and instructional materials, as specified in Section 1240.3.

(3) For Item 6110-195-0001 of Section 2.00 of the annual Budget Act, the item shall exclude moneys that are required to fund awards for teachers that have previously met the requirements necessary to obtain these awards, until the award is paid in full.

(4) For Item 6110-266-0001 of Section 2.00 of the annual Budget Act, a county office of education shall conduct at least one site visit to each of the required schoolsites pursuant to Section 1240 and shall fulfill all of the duties set forth in Sections 1240 and 44258.9.

(5) For Item 6110-198-0001 of Section 2.00 of the annual Budget Act, a school district or county office of education that operates the child care component of the Cal-SAFE program shall comply with paragraphs (5) and (6) of subdivision (c) of Section 54746.

(f) This section does not invalidate any state law pertaining to teacher credentialing requirements or the functions that require credentials.

(g) This section shall become operative on July 1, 2015.

SEC. 4. Chapter 3 (commencing with Section 63060) is added to Part 35 of Division 4 of Title 2 of the Education Code, to read:

1 CHAPTER 3. MAXIMUM CATEGORICAL FUNDING FLEXIBILITY  
2 AND ACCOUNTABILITY PROGRAM  
3

4 63060. (a) The Maximum Categorical Funding Flexibility and  
5 Accountability Program is hereby established. The program shall  
6 be implemented from the 2015–16 fiscal year to the 2019–20 fiscal  
7 year, inclusive. The Superintendent shall select school districts to  
8 participate in the program that meet the preconditions of Section  
9 63061 and agree to demonstrable goals as specified in Section  
10 63062. A school district may apply to the Superintendent for  
11 selection to participate in the program.

12 (b) As used in this chapter, a “participating school district” is  
13 a school district selected by the Superintendent to participate in  
14 the Maximum Categorical Funding Flexibility and Accountability  
15 Program established by this chapter.

16 63061. (a) In order to be deemed in compliance with the  
17 program and funding requirements contained in statutory,  
18 regulatory, and provisional language associated with the items  
19 listed in paragraph (2) of subdivision (a) of Section 42605 for any  
20 of the fiscal years from 2015–16 to 2019–20, inclusive, a school  
21 district shall meet all of the following preconditions:

22 (1) The school district has a plan, developed in conjunction with  
23 parents and teachers, to accelerate pupils’ progress to academic  
24 proficiency. The plan shall include both of the following:

25 (A) Measurable metrics to improve pupil performance, close  
26 the achievement gap, increase college entrance rates, and increase  
27 career readiness.

28 (B) An explanation of the manner in which the objectives of  
29 each categorical program funded under the items listed in paragraph  
30 (2) of subdivision (a) of Section 42605 will be met.

31 (2) The governing board of the school district, at a regularly  
32 scheduled public meeting of the board, has approved the plan and  
33 developed corresponding policies in support of the plan.

34 (3) The annual evaluation of the performance of the  
35 superintendent of the school district is linked to the pupil  
36 performance goals specified in paragraph (1).

37 (4) The school district demonstrates a pattern of stability  
38 between management and the bargaining units.

39 (5) There is community support for the plan.

(6) The school district has surveyed parents and legal guardians in the district to gauge support for participation in the program. At least one-half of the permanent teachers and one-half of the surveyed parents or legal guardians in the school district support participation in the program, and that support is demonstrated in writing.

(7) The standards-based curriculum for English learners is cognitively complex, coherent, well articulated, and meaningful, and will enable English learners to learn English quickly and fluently so that they may participate fully in the grade-level curriculum. At a minimum, the program shall provide all of the following:

(A) Support for English learners who are new to the school district.

(B) An English language development program that is comprehensive and standards aligned and that has all of the following characteristics:

- (i) Actively develops all domains of language.
  - (ii) Addresses varying levels of English fluency.
  - (iii) Develops age-appropriate and context-appropriate language, including an emphasis on academic English.
  - (iv) Includes opportunities for English learners to interact with native English speaking peers.
  - (v) Creates a supportive learning environment for language learning.
  - (vi) Recognizes the role of primary language development.
- (C) Full access to a challenging curriculum.
- (D) High-quality instruction and materials.
- (E) An inclusive and affirming school climate.
- (F) Valid, reliable, comprehensive, and useful assessments.
- (G) Strong family partnerships.
- (H) A qualified educator workforce.

(b) At a minimum, the Superintendent shall consider the quality and rigor of the manner in which the school districts meet the preconditions outlined in subdivision (a).

(c) If the Superintendent determines that a school district fails to meet the preconditions specified in subdivision (a) with respect to some of the categorical education programs funded under the items listed in paragraph (2) of subdivision (a) of Section 42605, the Superintendent may select that school district as a participant,

1 but restrict the participation of that school district to a subset of  
2 the categorical education programs and budget items.

3 (d) Nothing in this section shall be construed as imposing new  
4 mandates on school districts.

5 63062. A school district that participates in the Maximum  
6 Categorical Funding Flexibility and Accountability Program shall  
7 agree to demonstrate all of the following goals:

8 (a) Significant progress toward accelerating pupils' progress  
9 toward proficiency in California's academic standards over a  
10 three-year period, as measured by the annual assessments  
11 administered pursuant to Article 4 (commencing with Section  
12 60640) of Chapter 5 of Part 33 and any other local, state, or  
13 national assessments.

14 (b) A narrowing of the achievement gap in the school district's  
15 federally recognized subgroups, as measured by the annual  
16 assessments administered pursuant to Article 4 (commencing with  
17 Section 60640) of Chapter 5 of Part 33 and any other local, state,  
18 or national assessments.

19 (c) Fiscal solvency, as measured by the standards and criteria  
20 adopted by the state board pursuant to Section 33127 and  
21 implementing regulations.

22 (d) Positive growth, as measured by the school district's  
23 Academic Performance Index score, the annual assessments  
24 administered pursuant to Article 4 (commencing with Section  
25 60640) of Chapter 5 of Part 33, and any other local, state, or  
26 national assessments.

27 (e) An increase in the school district's graduation rate, as  
28 measured by the California Longitudinal Pupil Achievement Data  
29 System and the school district level data system.

30 (f) Improvement in the school district's college entrance rate,  
31 as measured by the National Student Clearinghouse or other  
32 state-approved pupil data tracking system.

33 (g) Improvement in the number of pupils who enter technical  
34 school after graduation, as measured by the National Student  
35 Clearinghouse or other state-approved pupil data tracking system,  
36 or who graduate prepared to enter high-wage, high-skill  
37 occupations.

38 63063. (a) For the 2015–16 fiscal year to the 2019–20 fiscal  
39 year, inclusive, the Superintendent shall do all of the following:

1 (1) Increase or decrease the amounts apportioned pursuant to  
2 paragraph (2) of this subdivision proportional to any increase or  
3 decrease in the amounts appropriated in Section 2.00 of the annual  
4 Budget Act for the budget items listed in paragraph (2) of  
5 subdivision (a) of Section 42605.

6 (2) Provide an apportionment schedule to each participating  
7 school district that separately itemizes and differentiates the amount  
8 apportioned for each budget item listed in paragraph (2) of  
9 subdivision (a) of Section 42605.

10 (3) Allocate the amounts apportioned pursuant to paragraph (2)  
11 of subdivision (a) of Section 42605 to the school districts selected  
12 for participation in the program on the same timeline that  
13 apportionments related to those budget items are apportioned to  
14 other school districts.

15 (b) Each apportionment made pursuant to subdivision (a) to the  
16 school districts participating shall be in lieu of funding that those  
17 school districts would have received from the same budget items  
18 if not participating. A school district shall not receive duplicated  
19 funding as a result of participation in the program.

20 63064. (a) Notwithstanding any other law, a participating  
21 school district may use the funds that it receives pursuant to Section  
22 63063 for any purpose related to improving pupil achievement  
23 and academic instruction, except as provided in subdivision (b).

24 (b) (1) With respect to funds received pursuant to Item  
25 6110-128-0001 of Section 2.00 of the annual Budget Act, a  
26 participating school district shall use these funds to supplement  
27 the base program provided to English learners and economically  
28 disadvantaged pupils, as those terms are defined in Section 54026.

29 (2) With respect to funds received pursuant to Item  
30 6110-119-0001 of Section 2.00 of the annual Budget Act, a  
31 participating school district shall use these funds to supplement  
32 the base program provided to foster youth.

33 (3) With respect to funds received pursuant to Item  
34 6110-196-0001 of Section 2.00 of the annual Budget Act, a  
35 participating school district shall use these funds to ensure that  
36 child care and development services continue to be provided to  
37 subsidized low-income children.

38 (c) It is the intent of the Legislature that the educational needs  
39 of pupils served by the categorical programs funded by the items  
40 listed in paragraph (2) of subdivision (a) of Section 42605 be

1 served by a school district selected for participation in the pilot  
2 project.

3 (d) It is not the intent of the Legislature to waive requirements  
4 of any educational programs enacted through the initiative process.

5 (e) A participating school district shall implement an open and  
6 transparent process that allows public input at no less than two  
7 regularly scheduled meetings of the governing board of the school  
8 district so as to notify parents, staff, and the community of  
9 discussions and pending decisions related to the flexible use of  
10 funds apportioned pursuant to subdivision (a) of Section 63063.  
11 The school district shall seek input from parents, staff, and the  
12 community regarding the option or options most suitable for the  
13 school district and schools in the district. The governing board of  
14 the school district shall not take action on this item at the first  
15 meeting at which the item appears on the agenda.

16 63065. (a) Notwithstanding any other law, a participating  
17 school district shall be deemed to be in compliance with the  
18 program and funding requirements contained in statutory,  
19 regulatory, and provisional language associated with the items  
20 listed in paragraph (2) of subdivision (a) of Section 42605.

21 (b) Notwithstanding subdivision (a), a participating school  
22 district that receives funds pursuant to Item 6110-128-0001 of  
23 Section 2.00 of the annual Budget Act shall continue to designate  
24 staff to coordinate services and programs, including the home  
25 language survey, for English learners and shall continue in  
26 existence parent advisory committees and schoolsite councils, as  
27 required pursuant to Section 62002.5.

28 63066. (a) A participating school district shall submit an  
29 evaluative annual report to the department that details the progress  
30 made during the immediately prior school year toward the goals  
31 set forth in Section 63062, including details of the academic  
32 progress made by pupil subgroups.

33 (b) As part of the annual report pursuant to subdivision (a), a  
34 participating school district also shall submit to the department an  
35 annual expenditure report detailing the expenditure of specific  
36 categorical program funds and the purposes for which those funds  
37 were expended. The report shall do all of the following:

38 (1) Identify the weighting of per pupil expenditures from all  
39 funds spent on low-socioeconomic, limited-English-proficient,



1 and special education pupils, as compared to other pupils in the  
2 school district.

3 (2) Compare the identified weightings of per pupil expenditures  
4 reported pursuant to paragraph (1) to the weightings of per pupil  
5 expenditures spent in the 2009–10 fiscal year on pupils in the pupil  
6 subgroups listed in paragraph (1).

7 (3) Be in a format designated by the Superintendent, using the  
8 Standardized Account Code Structure and consistent with the  
9 California School Accounting Manual, and shall provide the ability  
10 to track each of the amounts apportioned pursuant to subdivision  
11 (a) of Section 63063 with respect to resource, program, function,  
12 and object.

13 (4) Be submitted by the date designated as the deadline for  
14 submission of school district annual financial statements.

15 (c) The Superintendent shall provide guidance to the  
16 participating school districts so as to ensure that the expenditure  
17 reports submitted pursuant to subdivision (b) conform to the  
18 requirements placed on those reports.

19 (d) By June 1, 2017, the Superintendent shall contract for the  
20 completion of an independent evaluation of the program utilizing  
21 available federal and other nonstate funding.

22 (1) The contracted independent evaluator shall provide the  
23 Legislature, the Governor, the Superintendent, the state board, and  
24 the participating school districts with both of the following:

25 (A) An interim report no later than 18 months after the  
26 Superintendent apportions funding pursuant to Section 63063.

27 (B) By December 31, 2019, a final evaluation report that  
28 identifies the success and failures of the program and makes  
29 recommendations regarding improving the program and whether  
30 the program should be continued.

31 (2) The evaluation shall make use of school district expenditure  
32 reports submitted pursuant to subdivision (b), school district plans  
33 as described in Section 63061, and any other available financial,  
34 programmatic, and pupil outcome data currently collected and  
35 available.

36 (3) Upon request by the evaluator, the department and the  
37 participating school districts shall provide any available data that  
38 the evaluator deems necessary to meaningfully evaluate the  
39 program.

1 (4) This subdivision does not relieve a school district or any  
2 other party from obligations under state or federal law to protect  
3 pupil privacy.

4 63067. This chapter shall become inoperative on July 1, 2020,  
5 and, as of January 1, 2021, is repealed, unless a later enacted  
6 statute, that becomes operative on or before January 1, 2021,  
7 deletes or extends the dates on which it becomes inoperative and  
8 is repealed.